

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES E. GLADFELTER, JR.,	:	
	:	Civil Action No. 4:CV-06-1360
Plaintiff,	:	
	:	
v.	:	(Judge McClure)
	:	
THOMAS HOGAN, et al.,	:	
	:	(Magistrate Judge Smyser)
Defendants.	:	

ORDER

July 11, 2007

On July 11, 2006, plaintiff Charles E. Gladfelter, Jr., a state prisoner proceeding pro se, filed a civil rights action pursuant to 42 U.S.C. § 1983. In his complaint, plaintiff alleges that defendants denied him the ability to practice his religious beliefs in violation of the First Amendment.

The matter was initially referred to United States Magistrate Judge Andrew Smyser. On April 16, 2007, after the close of the discovery period, defendants filed a motion for summary judgment along with a statement of material facts and supporting brief. (Rec. Doc. Nos. 23-25.) Plaintiff did not file an opposing brief by the time set out in the Local Rules. On May 18, 2007, plaintiff was ordered to file an opposing brief as well as a response to defendants' statement of material facts by June 7, 2007. (Rec. Doc. No. 18.) This order warned that if he failed to

do so, it may be recommended that the action be dismissed.

Plaintiff did not file an opposing brief or response to the statement of material facts by June 7, 2007. On June 21, 2007, the magistrate judge issued a five-page report recommending that the action be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure. (Rec. Doc. No. 27.) Specifically, the magistrate judge conducted an analysis of the factors set out in Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984) and concluded that dismissal was appropriate due to plaintiff's dilatoriness. (Id. at 4.) Furthermore, the magistrate judge relied on the Third Circuit's opinion in Stackhouse v. Mazurkiewicz in which the court stated that dismissal may be appropriate without analysis on the merits when a party fails to respond to a motion after a specific direction by the court to do so. 951 F.2d 29, 30 (3d Cir. 1991).

Plaintiff has not filed any objections to the magistrate judge's report within the time set out by the Local Rules. Furthermore, plaintiff has still not filed a brief in opposition to defendants' motion for summary judgment or a response to defendants' statement of material facts. Therefore, because we agree with the magistrate judge's report and recommendation and because it appears that the plaintiff has abandoned this lawsuit, we will adopt the magistrate judge's report and recommendation in full and dismiss the complaint.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Andrew Smyser's Report and Recommendation is adopted in full. (Rec. Doc. No. 27).
2. The complaint is dismissed, without prejudice, for failure to prosecute and for failure to comply with a court order, under Fed. R. Civ. P. 41(b).
3. The clerk is directed to close the case file.
4. Any appeal from this order is not taken in good faith.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge